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09/781,920	02/12/2001	Gregory Hagan Moulton	UND007	9074

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EXAMINER
JUNG, DAVID YIUK

ART UNIT	PAPER NUMBER
2134	

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

		Applicati n No.	Applicant(s)
		09/781,920	MOULTON, GREGORY HAGAN
Offic Action Summary		Examin r	Art Unit
		David Y. Jung	2134

-- Th MAILING DATE f this communication appears on the cover sh t with the correspondence address --

Period f r Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *3/2006*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disp sition of Claims

4)☐ Claim(s) *1-29,31-39 and 41-48* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) *1-4,6,7,10-18,20,21,24-29,39,42,43 and 45-48* is/are rejected.

7)☐ Claim(s) *5,8,9,19,22,23,31-38,41 and 44* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Pri rity under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

CLAIMS PRESENTED

Claims 1-29, 31-39, and 41-48 are presented.

Response to Arguments

The arguments were presented at pages 9-16 of the Amendment. Applicant has

argued that the reference (Gdiff) does not teach the features of the claims.

Pages 9-10 of the Amendment discuss the general background art. Applicant is

thanked for explaining the background for Applicant's position. Pages 9-10 mention

specific passages of the specification. The Office notes that these passages refer to the

situation likely to come up in <u>lossless compression</u> and transmission (e.g., reducing

redundancies, etc.). At the moment, the Office believes these background assumptions

have crept into the arguments <u>without sufficiently</u> being <u>clear</u> about the background

assumptions -- <u>except for the claims indicated as allowable</u> (see below). In response to

these applicant's arguments that the references fail to show certain features of

applicant's invention, it is noted (as in the previous Office Actions and in the following

paragraphs) that the features upon which applicant relies are not recited in the rejected

claims. Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993).

Whether or not Gdiff teaches these features depends on the scope of the

meaning of the terms of the claims.

(I) The term "lexicon" has been discussed in the prior Office Action.

(II) At page 11, the term "transmitting" is now of issue. Applicant argues that Gdiff does not teach "transmitting." This is not yet persuasive. Gdiff, in its very introduction, notes that this was submitted to W3 organization from Marimba. Gdiff ends with a reference to data compression for HTTP. Thus, Gdiff teaches transmitting.

(III) Also, at page 12, the term "requesting" is of issue. Applicant argues that Gdiff does not teach "requesting" that depends upon conditions (such as if the unique identifier is not present at a location). This is not persuasive because Gdiff specifically notes (see section 3 Conclusion) that Gdiff is intended for a wide application ("for any types of files"). Indeed, the "G" in Gdiff stands for "generic." Therefore, the concept of Gdiff is broad enough to cover what is usually meant by "difference." Usually, in computer science, not being present is a "difference" with being present. Thus, if the unique identifier is not present, this is certainly part of what is usually meant. As for Applicant arguing that Gdiff cannot be physically be same as his own claimed invention (such as DATA and COPY not exactly duplicating his own steps), one notes that Gdiff was cited for its conceptual teachings and not for actual physical nature. Indeed, Gdiff itself (in its introduction) notes that this is an exploratory document for discussing concepts and not merely for physical implementation.

(IV) At page 12, Applicant argues regarding the features of claims 41 and 44. Applicant's arguments regarding these claims have been fully considered and

are persuasive. <u>Unlike the claim 39</u>, these claims recite enough limitations to clearly show that the claimed inventions must be within the situation noted in the arguments of the last paragraph of page 9 (the paragraph which ends at page 10). Thus, in claims 41 and 44, terms "tables" and "lexicon" and "transmitting" and "requesting" <u>cannot be so broadly interpreted as in the interpretation of claim 39</u>. The rejections of claims 41 and 44 have been withdrawn.

(V) At page 13, Applicant argues regarding the features of claims 31-38 and notes that claims 31-38 include the features argued for claim 41. Thus, Applicant's arguments regarding these claims have been fully considered and are persuasive. The rejections have been withdrawn.

(VI) At page 13, Applicant argues regarding the newly added limitation to claim 1 (digital sequence being greater in size than the corresponding unique identifier). Gdiff clearly states that the resulting size can be smaller (rather than larger). Thus, Gdiff teaches the situation of both the smaller (as in the claimed invention) and the larger.

(VI) At pages 13-16, Applicant stated that he does not wish to respond directly to the questions posed by some of the previous Office Actions. This is respected by the Office – especially because Applicant has provided extensive explanations regarding his position.

(VII) At page 16, Applicant argues regarding claim 8. The "factoring" as claimed clearly shows that the claimed inventions must be within the situation noted in the arguments of the last paragraph of page 9 (the paragraph which ends at page

10). Indeed, such "factoring" and "chunks" as recited are terms of the art of lossless compression. The rejections have been withdrawn.

(VIII) At page 16, Applicant argues regarding the features of claims 5, 19, 22 and notes that claims 5, 19, 22 include the features argued for claims 41, 41, 8 respectively. Thus, Applicant's arguments regarding these claims have been fully considered and are persuasive. The rejections have been withdrawn.

In summary, claims 5, 8-9, 19, 22-23, 31-38, 41, 44 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The other claims 1-4, 6-7, 10-18, 20-21, 24-29, 39, 42-43, 45-48 remain rejected.

CLAIM REJECTIONS

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-4, 6-7, 10-18, 20-21, 24-29, 39, 42-43, 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gdiff (http://www.w3.org/TR/NOTE-gdiff-19970901).

Regarding claim 1, Gdiff teaches "A system for data transmission comprising: a transmitting system comprising a first lexicon including a plurality of digital ... unique identifier corresponding identifiers, wherein each of the digital ... is greater in size than the corresponding unique identifiers; (section 2. The Generic Diff Format, i.e. the GDIFF format being used to distribute the differences between two versions of a file, rather than the entire new version of the file – because the difference algorithm is used, this teaches the use of a lexicon to so as to compute the difference between the old and the new versions of a file) a receiving system; coupling said transmitting and receiving systems, said transmitting system capable transmitting at one of said plurality of unique identifiers to said receiving system lieu of said least one corresponding digital ... (section 2. The Generic Diff Format, i.e. the GDIFF format having DATA and COPY commands that work with W3C protocols – such as HTTP – so as to permit such transmission and reception; section Status of this Document, i.e. the submission being a NOTE made available to and by W3 Consortium)."

These passages of Gdiff do not teach "sequence" in the sense of the claim. Indeed, GDIFF requires random access to the old version of the file and not merely sequential access.

Nevertheless, it was well known in the art to have a "sequence" situation for the motivation of having easier handling of information (which is often done by putting information in a different type of memory or storage).

Hence, it would have been obvious to those of ordinary skill in the art at the time

of the claimed invention to modify Gdiff for the motivation noted in the previous

paragraphs so as to teach the claimed invention.

Regarding claim 2 (another system receiving, etc.), such particular features are

well known in the art for the purpose of handling information across computers -- e.g.,

multiple computers receiving information across the Internet.

Regarding claim 3 (second lexicon, etc.), such particular features are well known

in the art for the purpose of handling information across computers – e.g., GDIFF being

compatible with many types of formats because GDIFF explicitly leaves the formats to

be decided later. Regarding claims 4, 6-7, 10-14, such particular features are well

known in the art for the motivation of handling various different types of formats and

situations – e.g., GDIFF being compatible with many types of data handling, including

rsync.

Regarding claims 15-18, 20-21, 24-28, these claims are method analogs to

claims 1-4, 6-7, 10-14. For the reasons noted in the rejections of claims 1-4, 6-7, 10-14,

these claims 15-18, 20-21, 24-28 are not patentable.

Regarding claim 29, Gdiff teaches "A system for symbolic exchange of digital …

comprising: first and second computer systems comprising respective first and second

local lexicons including a plurality of digital … to unique identifier correspondences;

(section 2. The Generic Diff Format, i.e. the GDIFF format being used to distribute the

differences between two versions of a file, rather than the entire new version of the file –

because the difference algorithm is used, this teaches the use of a lexicon to so as to

compute the difference between the old and the new versions of a file) transmission

medium coupling said second computer systems; said first computer system operative

to transmit unique identifier said second computer system in lieu corresponding digital

... (section 2. The Generic Diff Format, i.e. the GDIFF format having DATA and COPY

commands that work with W3C protocols – such as HTTP – so as to permit such

transmission and reception; section Status of this Document, i.e. the submission being a

NOTE made available to and by W3 Consortium)."

These passages of Gdiff do not teach "sequence" in the sense of the claim.

Indeed, GDIFF requires random access to the old version of the file and not merely

sequential access.

Nevertheless, it was well known in the art to have a "sequence" situation for the

motivation of having easier handling of information (which is often done by putting

information in a different type of memory or storage).

Hence, it would have been obvious to those of ordinary skill in the art at the time

of the claimed invention to modify Gdiff for the motivation noted in the previous

paragraphs so as to teach the claimed invention.

Regarding claims 39, 42-43, 45-48, these claims are symbolic exchange method

analogs to claims 1-4, 6-7, 10-14. For the reasons noted in the rejections of claims1-4,

6-7, 10-14, these claims are not patentable.

Conclusion

The art made of record and not relied upon is considered pertinent to applicant's

disclosure. The art disclosed general background.

Points of Contact

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or

"DRAFT")

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to David Jung whose telephone number is (571) 272-3836

or Jacques Louis-Jacques whose telephone number is (571) 272-6962.

David Jung

Patent Examiner

6/9/06